

DUNCAN MILLER

IBLA 76-567

Decided July 8, 1976

Appeal from decision of the Wyoming State Office, Bureau of Land Management, dismissing protest.

Dismissed.

1. Rules of Practice: Appeals: Statement of Reasons

A statement of reasons which merely contains broadside assertions and does not point out affirmatively in what respect the decision appealed from is in error may be dismissed.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications: Drawings

The dismissal of a protest, which consists of a mere allegation that the successful drawee was engaged in practices militating against the fairness of the drawing, will be sustained on appeal absent any substantiating evidence supporting the allegation.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Duncan Miller appeals from a decision dated March 18, 1976, rendered by the Wyoming State Office, Bureau of Land Management, dismissing his protest against the award of oil and gas leases W-54107 (Parcel 131) and W-54058 (Parcel 82) to the Beard Oil Company, pursuant to simultaneous procedures.

Appellant's protest reads in pertinent portion as follows:

It is believed that the captioned oil company uses a lot of agents, directly and/or indirectly, to acquire oil and gas leases under the Mineral Leasing Act of 1920, as Amended.

It is felt that a full investigation of your records will prove this to be true.

In other words, there seems to be a clearcut violation of McKay v. Wahlemaier, [sic] 226 F.2d, 35, 96 U.S.Ct.App. D.C. 313.

It is hoped that you will fully act on this matter in the best interests of the Mineral Leasing Act of 1920, as Amended.

His statement of reasons reads:

This rejection was arbitrary and capricious and contrary to law and statutory authority; also, violation of the United States Constitution, particularly with respect to the "due process clause" of the 5th Amendment.

The proof of the protestant's allegations are widespread; in fact, the Beard Oil Corporation [sic] does not deny them which, in itself, is proof enough.

In short, the evidence has been suppressed and stonewalled. This also pertains to other countless protests made by the protestant in the best interests of the United States pertaining to oil and gas operations under the Mineral Leasing Act of 1920, as Amended.

[1] Although appellant asserts that the dismissal of his protest is fraught with legal deficiencies, he fails to indicate specifically why such is the case. His inference that Beard Oil Company must be guilty of having "stacked" the drawing since it had not denied his charges is unwarranted. Such a failure is fully consistent with a desire not to dignify the charges with any response. The allegation that "the evidence has been suppressed and stonewalled" is bereft of even a clear assertion of (1) the nature of the "evidence," (2) what the "evidence" purports to show, and (3) by whom and how the "evidence" was suppressed and stonewalled.

We stated in Duncan Miller, 20 IBLA 19, 20-21 (1975), as follows:

The obscureness of Miller's appeals is legend. It is as true now as it was in 1966, when, in considering Duncan Miller, 73 I.D. 211, the Assistant Solicitor, speaking for the Secretary, said:

Miller has filed voluminous appeals over the past several years. His appeals are not noted for their clarity or for their orthodoxy, and this one is no exception.

73 I.D. at 215. And again in Duncan Miller, A-31081 (May 15, 1969), when it was noted that:

This office has had previous occasion to criticize Miller for the "discursive, incoherent documents replete with irrelevances" filed by him as appeals. Duncan Miller, A-31005 (March 4, 1969). The appeal just quoted is not a model of clarity \* \* \*

While in this "appeal" he asserts that unlawful acts of administrative officers have deprived him of rights, he adheres to obfuscatory and fatuous presentations in which he neither identifies the violator nor specifies the law or regulation which has been violated. As the Department said in Duncan Miller, A-30364 (May 12, 1965):

Miller's present appeal is no more illuminating than his previous efforts were. He neither identifies the violator of any law or regulation nor does he specify the law or regulation that has been violated. Moreover, he does not establish any relationship between the charge of fraudulent lease offerors and his request that no lease be issued to any offeror receiving a higher priority than his.

Yet again, in Duncan Miller, 7 IBLA 169 (1972), this Board characterized the presentation as follows:

This appeal is clearly specious and totally undeserving of the attention which must necessarily be accorded it.

Not a scintilla of evidence has been presented by Miller to corroborate his scatter-shot allegations. In short, Miller's broadside assertions in the purported statement of reasons fall short of pointing out affirmatively in what respect the decision appealed

from is in error. It therefore does not meet the requirements of the Department's rules of practice and may be dismissed.

[2] Even if we were to consider Miller's appeal on its merits, it falls far short of having any probative impact. A mere accusation that a company which was awarded oil and gas leases was engaging in illegal practices with respect to the drawing, without any substantiation, is an insufficient basis to disturb such award. See Duncan Miller, 25 IBLA 263 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

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Frederick Fishman  
Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

